

CITY OF SA'N JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795 <div style="text-align: center; font-size: 24pt; font-weight: bold;">STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 8-27-03 Item:
	File Number CP02-060
	Application Type Conditional Use Permit
	Council District 1
	Planning Area West Valley
Assessor's Parcel Number(s) 372-22-049	

PROJECT DESCRIPTION	Completed by: Darren McBain
Location: East side of De Anza Boulevard approximately 100 feet southerly of State Route 85 (1340 De Anza Blvd.)	
Gross Acreage: 1.1	Net Acreage: 1.1 Net Density: N/A
Existing Zoning: CP Commercial Pedestrian	Existing Use: Offices
Proposed Zoning: No change	Proposed Use: 40-foot-high free-standing wireless communications monopole and an associated equipment shed

GENERAL PLAN	Completed by: DM
Land Use/Transportation Diagram Designation General Commercial	Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING	Completed by: DM
North: Restaurant	CP Commercial Pedestrian
East: State Route 85	State of California
South: Commercial	A(PD) Planned Development
West: Commercial	City of Cupertino

ENVIRONMENTAL STATUS	Completed by: DM
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on	<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete

FILE HISTORY	Completed by: DM
Annexation Title: Madera No. 3	Date: 11-08-1956

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision	Date: _____	Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation

APPLICANT/OWNER/DEVELOPER
B & B VI, a General Partnership 1770 Technology Drive San José, CA 95110

PUBLIC AGENCY COMMENTS RECEIVEDCompleted by: **DM**

Department of Public Works

None received

Other Departments and Agencies

None received

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

B & B VI, a General Partnership, is proposing a Conditional Use Permit to allow a 40-foot-high, free-standing monopole for wireless communication antennas, and an associated ground-mounted equipment shed. Wireless communications monopoles are a conditional use in the CP Commercial Pedestrian Zoning District. The subject property is located at 1340 De Anza Boulevard, on a 1.1-acre site. The property is bounded by commercial land uses on the north, south, and west sides. Highway 85 is adjacent to the east.

The property is currently developed with a two-story office building. The roof of the existing building is currently developed with approximately 12 wireless communications antennas and a semi-open, parapet-like roof screen set atop a sloped roof element. The existing antennas are dispersed around the perimeter of the building's roof, and are highly visible from both De Anza Boulevard and the 85 Freeway. Most recently, three of the existing 12 antennas were approved under a 1998 Conditional Use Permit (File No. 98-03-013). The other nine antennas were existing when the 1998 permit was approved, but their previous permit history is unclear. Staff had recommended denial of the 1998 Conditional Use Permit on the grounds that the proposal would result in visual clutter and an excessive number of antennas on the building's roof. The permit, however, was approved by the Planning Commission.

Subsequently in December, 2000, an application was filed for a Site Development Permit (File No. H00-122) to consider three rooftop wireless communication antennas, two GPS antennas, and an associated ground-mounted equipment shed. Building-mounted wireless antennas are a "permitted" use in the city's commercial zoning district, and therefore, require a Site Development Permit rather than a Conditional Use Permit. The Director of Planning denied the Site Development Permit application in May of 2001 and, on appeal, the Planning Commission upheld the Planning Director's denial in June of 2001.

The key issue in the denial process for H00-122 was the question of visual clutter. The Planning Director's permit denial found that the existing rooftop antennas were inadequately screened by the existing rooftop parapet element, and constituted visual clutter. The Director further determined that the addition of antennas would add further visual clutter, and therefore denied the permit.

On appeal, Planning staff recommended that the existing and new antennas should be clustered, and/or more effectively screened, in order for any more antennas to be approved on the site. Staff suggested a more substantial roof screen or the addition of a tower-like architectural element as a means of architecturally

integrating the antennas into the design of the building and addressing the visual clutter issue. The applicant did not propose any reconfiguration or improvements to the existing appearance of the building's rooftop in response to staff's recommendations. The Planning Commission, on appeal, upheld the Director's decision to deny the permit.

Project Description

The project proposal would allow a 40 feet tall "slim-line" wireless communications antenna in the rear parking area behind the existing building and next to the freeway. The monopole would be placed among several large existing trees located on and adjacent to the subject site. A 120 square foot equipment cabinet is proposed near the base of the antenna. Three new Redwood trees are also proposed in the immediate vicinity to help provide additional screening.

ENVIRONMENTAL REVIEW

The Director of Planning, Building and Code Enforcement has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act (CEQA). The CEQA guidelines include an exemption (section 15303) for new construction or conversion of small structures. The CEQA guidelines do not specifically address monopoles per se. However, 15303c allows an exemption for "a store, motel, office, restaurant or similar "structure" not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive." It is staff's opinion that the proposed project adequately conforms to the provisions of this section because of the small size of the structure.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of General Commercial in that the project is for commercial use, i.e. the installation of a wireless communications antenna.

ANALYSIS

The primary issues analyzed in this report are the project's conformance to: 1) to the Zoning Ordinance, and 2) City Council Policy 6-20, Land Use Policy for Wireless Communication Antennas, which provides criteria for siting such facilities, including height, visual impacts, and setbacks from adjacent residential uses. As described in greater detail below, staff's opinion is that the proposed project conforms to the Zoning Ordinance and is substantially, though not completely, consistent with the provisions of the Wireless Communications Policy.

Conformance to the Zoning Ordinance

Height: The project site is located in the CP Commercial Pedestrian Zoning District. This district has a maximum height limit of 50 feet (subject to possible exceptions for wireless communications equipment). The height of the proposed monopole is 40 feet and therefore conforms to the Zoning Ordinance's height limit.

Setbacks: The proposed monopole is set back approximately 10 feet from the site's rear property line, which abuts the 85 freeway. The CP district normally has a minimum required rear setback of 25 feet. However, the Zoning Ordinance includes an exception (Section 20.40.290) stating that "there shall be no rear setback for property

situate in any Commercial District whenever the entire rear property line of such property abuts property situate in any Commercial District or less restrictive district.” The 85 freeway right-of-way does not have a City zoning designation. However, it is staff’s opinion that the freeway adequately meets the intention of Section 20.40.290, in that the freeway does not represent a residential land use (or other sensitive land use). Staff’s interpretation is that the exception from the normally required 25-foot rear setback should apply to this site. The CP Commercial Pedestrian District does not have a side setback requirement.

Conformance with City’s Wireless Communications Policy

Council Policy 6-20 (Land Use Policy for Wireless Communication Facilities) was adopted by the City Council 1991, and revised in 1996. The stated purpose of the policy is to implement these facilities “in a way that minimizes visual clutter and other land use impacts and provide future opportunities for reducing impacts as changes in technology or development policy make this possible” (p. 2). A draft revision to the policy has been prepared by Planning staff, but has not yet been taken to the Planning Commission or City Council for consideration. Therefore, the following analysis is based on the current policy (see attached copy).

The policy identifies commercially zoned sites as appropriate potential locations for wireless communications facilities. It recommends that wireless antennas be located a minimum of 50 feet horizontally from any property with a residential use or General Plan designation, and that the facility not reduce required parking. Consistent with the policy, the proposed monopole is located approximately 400 feet horizontally from the nearest existing residential property to the east (across the 85 freeway) and to the south (two parcels away). The location of the monopole, in a corner of the site, avoids any potential vehicle circulation impacts or loss of parking.

The following is a point-by-point analysis of the proposed project’s conformance to the key provisions of the policy. The passages in *italic* are taken directly from the policy, and the follow-up, non-italic paragraphs discuss the project’s conformance.

✍ *New wireless communication facilities should be sited so as to minimize visual impacts.*

The proposed monopole is located near a group of approximately six existing trees located on the site, with the trees’ heights varying up to approximately 50 feet. The pole is proposed to be a “slim” pole (i.e., with antennas mounted flush against the pole rather than protruding outward on “spokes”) and would be painted in a matte green finish in order to visually blend in with the nearby trees to some extent. The pole would have little or no visibility from De Anza Boulevard, but would be visible from the freeway and other nearby off-site locations to the east of the site (please refer to the attached photosimulations that were submitted by the applicant). The trees are expected to have more of a screening effect when viewing the site from the freeway.

✍ *New freestanding monopoles should not be implemented where building mounted or collocated facilities are feasible and would reduce visual impacts.*

Building-mounted (for example, rooftop) antennas are generally preferable to new monopoles and the current policy encourages such installations. The circumstances on this site are unusual, in that the building’s roof already has numerous antennas and a proposal for additional rooftop antennas was denied by the Director of Planning in 2001. The Director’s decision was upheld by the Planning Commission on appeal. Please refer to the Background section of this report, above. The outcome of the 2001 process on this site supported the Director’s determination that the antennas mounted on the building’s roof constituted visual clutter, which would have been worsened by the addition of more antennas. The current proposal is, therefore, being put forward as a reasonable alternative to adding to the “visual clutter” impacts on the rooftop. In proposing a

monopole on the site, the applicant is, in effect, arguing that additional building-mounted antennas at this site are not feasible, and/or they would constitute more of a visual impact than would the proposed monopole. Planning staff's opinion is that a reasonable argument may be made for building-mounted antennas not being feasible at this site, given the outcome of the previous proposal. The Director of Planning determined that a more substantial roof screen or some other architectural element (for example, a clock tower) should be a precondition of any additional rooftop antennas on the building. In discussions with Planning staff, the current applicant has stated that these remedies are infeasible for both structural and financial reasons (staff has not independently investigated or tested the validity of those assertions).

The issue of whether the proposed monopole is less of a visual impact than additional rooftop antennas is also arguable, being a somewhat subjective determination. The proposed pole has a relatively low height compared to many others, has been designed to visually "disappear" into the trees from many vantage points, and will be substantially or completely unnoticeable from De Anza Boulevard. Staff's opinion is that, on balance, a fair argument can be made for the proposed pole being less of a visual impact than the addition of more antennas to the already-cluttered rooftop. However, it should be noted that the monopole would be in addition to—not "instead of"—the existing rooftop clutter, and would do nothing to improve the latter.

The policy recommends that applicants proposing new monopoles prepare a written alternatives analysis. The analysis should address "the potential for collocation or building-mounted alternatives as a means of reducing visual clutter... identify the location[s] of all existing monopoles within a quarter mile of the proposed site, provide an explanation of why collocation has not been proposed at each of these sites, and assess the potential for building-mounted alternatives" (p. 3).

The alternatives analysis submitted by the applicant (see attached copy) states that off-site building-mounted antenna sites are precluded either by residential zoning or by property owners uninterested in leasing space to wireless providers. The analysis identifies two potential collocation sites (De Anza College and Congress Springs Park) but indicates that both are too far from the subject site to be useful. A third nearby site is an existing 30-foot-high monopole located near the corner of De Anza Boulevard and Sharon Drive, approximately two blocks from the subject site. The applicant states that this site is not a potential collocation site because collocation would require raising the height of the pole and is unlikely to be approved. It should be noted that a Conditional Use Permit application is currently on file (File No. CP01-073) to raise the height of that facility by another wireless service provider. Planning staff has not reached an agreement with the applicant on how the pole should be modified, and the application is considered to be inactive.

✍ *Wireless communication service providers are encouraged to design new monopoles to accommodate future collocated facilities of lesser height and to cooperate in efforts to collocate new antennas on existing facilities.*

The current proposal is designed to allow two wireless service providers to locate their antennas on the pole.

✍ *All new monopoles should be time-conditioned to allow periodic evaluation of opportunities for collocating additional antennas on the approved facility and an assessment of technological changes that may allow reduction in the height of the pole or otherwise reduce its impacts.*

In keeping with the City's standard practices for new monopoles, staff is recommending that the proposed monopole be time-conditioned to expire after five years. Renewal of the permit for this site would require a new Conditional Use Permit Amendment. The existing building-mounted (rooftop) antennas on the site, which were approved in the 1990s, were not time-conditioned.

✍ *In cases where new monopoles are necessary, the poles and antennas should be designed and located to minimize visibility and additional landscaping or other visual amenities should be considered to compensate for visual impacts of the use.*

It is arguable whether or not the proposed monopole is truly “necessary.” However, to the extent that a monopole of some type is a potentially appropriate and acceptable facility at this location, then the proposed monopole would have a relatively minimal visual impact when compared to most others in highly developed and built-up areas (which is where monopoles are most desirable on the part of carriers). As noted above, the proposed pole is:

✍ located near a group of approximately six existing trees located on the site

✍ painted in a matte green color to visually blend in with the trees

✍ a “slim” pole (i.e., with antennas mounted flush against the pole rather than protruding outward on spokes)

✍ relatively low in height (40 feet) and under the Zoning Ordinance height limit for the CP zoning district

In addition, the applicant is proposing to plant three additional trees nearby (Redwood or a similar, fast-growing species) in order to further reduce the visibility of the proposed monopole once the trees become established.

CONCLUSION

By virtue of its location (adjacent to major thoroughfares) and its commercial zoning designation, the project site is highly desirable to providers of wireless service. Planning staff anticipates that continuing interest will be shown in locating additional wireless communication antennas on the site. From a land-use perspective, a more comprehensive solution to deal with the existing rooftop visual clutter and additional wireless antennas would be preferable to the current proposal. A more comprehensive approach would involve a more substantial and effective rooftop screen, and/or the addition of an architectural element such as a clock tower (free-standing or attached to the existing building) to house a large number of antennas and remove them from their current locations. However, the proposed monopole is designed and located in such a way that it will have relatively minimal visual impacts and will not substantially worsen the existing conditions on the site with regard to visual clutter.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following facts and findings in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding the proposed project:

1. The project site has a designation of General Commercial on the adopted *San José 2020 General Plan Land Use/Transportation Diagram*.
2. The project site at 1340 De Anza Boulevard is located in the CP Commercial Zoning District.
3. Wireless communications monopoles are a conditional use in the CP Commercial Zoning District.
4. The site is currently developed with a two-story office building.

5. The roof of the existing building is currently developed with 12 wireless communications antennas.
6. The existing roof screen is a semi-transparent design and does not adequately conceal the existing antennas.
7. The proposed project is within the required setbacks of the CP Commercial District.
8. The proposed monopole is 40 feet in height.
9. The maximum height limit of the CP Commercial Pedestrian Zoning District is 50 feet.
10. The proposed monopole has been located and designed to visually blend with existing adjacent trees.
11. The proposed antennas will be located approximately 400 feet from the nearest residential use.
12. The alternatives analysis provided by the applicant concluded that no feasible building-mounted and/or collocation opportunities were available in the vicinity of the project.
13. The proposed monopole will not eliminate required parking.
14. The proposed monopole will accommodate up to two wireless service providers.
15. The proposed monopole is time-conditioned to expire in five years.
16. City Council Policy 6-20 (Land Use Policy for Wireless Communication Facilities) states that new monopoles should:
 - a. Conform to the zoning district's height limit whenever possible
 - b. Be located no less than 50 feet from residential land uses
 - c. Be located and designed to minimize public visibility
 - d. Not eliminate required parking
 - e. Accommodate future collocation
 - f. Be time-conditioned to allow periodic re-evaluation
17. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.

The Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The project is consistent with the General Plan Land Use /Transportation Diagram designation of General Commercial.

2. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
3. The project complies with the applicable provisions of the Zoning Ordinance, Title 20 of the Municipal Code.
4. The proposed project substantially conforms to the City Council's Land Use Policy for Wireless Communication Facilities.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. As conditioned, the proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit, except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring*

regardless of any other expiration date contained in this permit. Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled "A Telecommunications Facility Located at 1340 De Anza Boulevard," dated September 30, 2002, last revised July 24, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. The applicant must abate any such nuisance immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Lighting.** This permit allows no new on-site lighting.
6. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
7. **Utilities.** All new on-site telephone and electrical service facilities shall be placed underground.
8. **Colors and Materials.** All wireless communications building-mounted antennas colors and materials are to be those specified on the approved plan set and shall match the existing structure. Equipment cabinet color shall be dark green to blend in with native landscaping.
9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP02-060, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Archaeology.* There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric and/or historic resources.
 - 1) If no resources are discovered, the archaeologist shall submit a report to the Director of Planning, Building and Code Enforcement verifying that the required monitoring occurred and that no further mitigation is necessary.

- 2) If evidence of any archaeological, cultural and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial and curation of archaeological resources).
 - 3) In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer and shall make a determination as to whether the remains are native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendant of the deceased Native Americans. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall re-enter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b) A final report shall be submitted to the Director of Planning prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resource analysis methodology and conclusions and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
11. **Co-location.** The applicant and wireless communication facility operator shall facilitate the future co-location of wireless communication antennas on this tower. The applicant and wireless communication facility operator shall notify the Director of Planning of any proposals by other wireless communication providers to collocate antennas on this tower. The notification shall occur within 30 days of receipt of the proposal, and shall include the file number of this Permit. Existing wireless communication facility operators with building mounted antennas shall, prior to the renewal of any lease, be encouraged and offered and opportunity to relocate antennas on the proposed monopole. Evidence of said offer shall be made available to the City upon request.
12. **Generators.** This permit does not include approval for an emergency back-up generator. Any such improvement would require additional approvals by the City.
13. **Equipment Removal.** The applicant shall remove the wireless communications antennas and associated equipment enclosure from the site at such time as the equipment is no longer in use.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
 3. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five years from the date this Permit. At that time, that applicant/owner shall provide information to the City to determine if the wireless communications antenna is still needed, based on improvements in technology or availability of alternative building-mounted opportunities in the vicinity.
 4. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning, Building and Code Enforcement. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.
- c: Building Division (2)
Engineering Services